

## **RESOLUTION NO. 10-34**

### **RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE SUBSTITUTION OF SECURITY FOR, AN EXTENSION OF THE MATURITY DATE OF, AND CERTAIN OTHER AMENDMENTS WITH RESPECT TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK VARIABLE RATE DEMAND REVENUE BONDS, SERIES 2001 (EAST BAY SPCA PROJECT)**

**WHEREAS**, the California Infrastructure and Economic Development Bank (the "Issuer") was established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 and following) (the "Act"), for the purpose of promoting economic development; and

**WHEREAS**, the Issuer is authorized to issue tax-exempt obligations to provide financing for economic development facilities (as such term is defined in the Act) located in the State of California; and

**WHEREAS**, the Issuer adopted Resolution No. 00-51 on November 21, 2000, and thereafter amended Resolution No. 00-51 by adopting Resolution No. 01-13, on March 27, 2001 (collectively, the "Resolutions"); and

**WHEREAS**, the Resolutions approved the issuance of revenue bonds in an aggregate amount not to exceed \$6,200,000 and a loan of the proceeds of such bonds to East Bay Society for the Prevention of Cruelty to Animals, a nonprofit public benefit corporation (the "Borrower") for the purpose of (a) financing the cost of designing, constructing, equipping and furnishing, and providing initial working capital financing for, a new facility providing animal adoption and education services, animal spay/neuter surgery services and other related activities for the animals and residents of Alameda County located at 4651 Gleason Drive, Dublin, California 94568, and (b) paying capitalized interest and certain costs of issuance in connection with the hereinafter identified Bonds ("Costs of the Project") and authorized certain documents in relation thereto; and

**WHEREAS**, pursuant to the Resolutions, the Issuer issued \$6,200,000 aggregate principal amount of California Infrastructure and Economic Development Bank Variable Rate Demand Revenue Bonds, Series 2001 (East Bay SPCA Project) (the "Bonds") pursuant to an Indenture of Trust, dated as of April 1, 2001 (the "Original Indenture"), by and between the Issuer and U.S. Bank Trust National Association, as trustee; and

**WHEREAS**, the trustee obligations of U.S. Bank Trust National Association were subsequently transferred to U.S. Bank National Association (the "Trustee"); and

**WHEREAS**, upon the issuance of the Bonds, the Issuer and the Borrower entered into a Loan Agreement, dated as of April 1, 2001 (the “Original Loan Agreement”), pursuant to which the Issuer loaned the proceeds of the Bonds to the Borrower to finance the Costs of the Project; and

**WHEREAS**, the Bonds, when issued, were secured by a letter of credit issued by Allied Irish Banks, p.l.c., acting through its New York Branch (the “Allied Irish Letter of Credit”); and

**WHEREAS**, the Borrower desires to provide an Alternate Letter of Credit (as defined in the Original Indenture) for the Allied Irish Letter of Credit, consisting of both a letter of credit to be issued by First Republic Bank (the “Letter of Credit Bank” and a standby letter of credit issued by the Federal Home Loan Bank of San Francisco (the “Support Letter of Credit Bank”); and

**WHEREAS**, the Borrower has represented that, as a result of the standby letter of credit provided by the Support Letter of Credit Bank, Standard & Poor’s Ratings Services will assign a rating of “AAA/A-1+” to the Bonds (a long-term rating of “AAA” and a short-term rating of “A-1+”); and

**WHEREAS**, the Original Indenture requires that the Issuer approve in writing the Borrower’s provision of an Alternate Letter of Credit; and

**WHEREAS**, the Borrower has requested that the Issuer and the Trustee enter into a supplement to the Original Indenture and amendment to the Original Loan Agreement in connection with the delivery of the Alternate Letter of Credit by the Letter of Credit Bank and Support Letter of Credit Bank, and to take and authorize certain other actions in connection with the foregoing; and

**WHEREAS**, pursuant to Section 9.01(b) of the Original Indenture, the Issuer may, with the consent of the Trustee, Allied Irish Banks, p.l.c., and the Borrower (the “Indenture Amendment Consents”), but without the consent of any Registered Owners, enter into a supplemental indenture for the purpose of curing any inconsistency or omission in the Original Indenture which does not adversely affect the rights of the Registered Owners, making such provisions for the purpose of conforming to the terms and provisions of any Alternate Letter of Credit which do not adversely affect the rights of the Registered Owners and to modify, amend or supplement the Original Indenture in any other respect which does not adversely affect the right of the Registered Owners; and

**WHEREAS**, the Borrower desires to extend the maturity date of the Bonds from October 1, 2027 to November 1, 2032, and has requested that the Issuer and the Trustee enter into a supplement to the Original Indenture in order to supplement and amend the provisions of the Original Indenture relating to the maturity date of the Bonds; and

**WHEREAS**, pursuant to Section 9.01(a) of the Original Indenture, the Issuer and the Trustee may enter into supplemental indenture to extend the maturity date of any Bond only after the consent of Allied Irish Banks, p.l.c., the Borrower and the owner of such Bond (the “Extension Consents”) have been filed with the Trustee; and



**WHEREAS**, pursuant to Section 10.04 of the Original Loan Agreement, amendments to the Original Loan Agreement are effective only with the written consent of the Trustee and Allied Irish Banks, p.l.c. (the “Loan Agreement Consents”); and

**WHEREAS**, the staff of the Issuer conducted a public hearing with respect to the extension of the maturity date of the Bonds on October 26, 2010 pursuant to a notice of public hearing published in a newspaper of general circulation in the city of Dublin (the “Dublin Notice Public Hearing”) and no comments were received by the Issuer at or prior to the Dublin Notice Public Hearing; and

**WHEREAS**, the staff of the Issuer will be conducting a second public hearing with respect to the extension of the maturity date of the Bonds on October 27, 2010 pursuant to a notice of public hearing published in a newspaper of general circulation in the city of Sacramento (the “Sacramento Notice Public Hearing”); and

**WHEREAS**, there has been presented to this meeting and is now on file with the Secretary of the Board of Directors (the “Secretary”) the following:

- 1) A proposed form of the first supplement to indenture of trust supplementing and amending the Original Indenture (the “First Supplement”), to be entered into by and between the Issuer and the Trustee; and
- 2) A proposed form of first amendment to loan agreement supplementing and amending the Original Loan Agreement (the “First Amendment”), to be entered into by and between the Issuer and the Borrower.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the California Infrastructure and Economic Development Bank, as follows:

**Section 1.** The above recitals are true and correct.

**Section 2.** The Issuer hereby approves the substitution of the Alternate Letter of Credit consisting of the letter of credit provided by the Letter of Credit Bank and the Chair of the Board of Directors, the Chair’s designee, or the Executive Director of the Issuer (the “Executive Director”), each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver written approval of the substitution of the Alternate Letter of Credit as required by the Original Indenture.

**Section 3.** The proposed form of First Supplement on file with the Secretary is hereby approved and the Chair of the Board of Directors, the Chair’s designee, or the Executive Director, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver the First Supplement to the Trustee in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the Issuer’s counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so approved, the “First Supplement to the

Indenture”). The Secretary is authorized to attest to the Issuer’s execution of the First Supplement to the Indenture.

**Section 4.** The proposed form of the First Amendment on file with the Secretary is hereby approved and the Chair of the Board of Directors, the Chair’s designee, or the Executive Director, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver the First Amendment in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the Issuer’s counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so approved, the “First Amendment to the Loan Agreement”). The Secretary is authorized to attest to the execution of the First Amendment to the Loan Agreement.

**Section 5.** The Executive Director, the Chair of the Board of Directors, or the Chair’s designee, each acting alone, is hereby authorized and directed, for and in the name and on behalf of the Issuer, to execute by manual or facsimile signature, replacement Bonds in an aggregate principal amount not to exceed the amount outstanding as of the date of execution thereof in accordance with the terms of this resolution, the Original Indenture and the First Supplement to the Indenture and in the form set forth in the First Supplement to the Indenture. The Bonds shall mature on the date or dates provided in the First Supplement to the Indenture, but not later than November 1, 2032. The replacement Bonds, when so executed, shall be delivered to the Trustee for authentication by the Trustee. The Trustee is hereby requested and directed to authenticate and register the Bonds so delivered by executing the appropriate Certificate of Authentication and Registration appearing thereon, and to deliver the new Bonds, when duly executed, authenticated and registered, upon the written direction of the remarketing agent for the Bonds.

**Section 6.** The Chair of the Board of Directors, the Chair’s designee or the Executive Director, each acting alone, is hereby authorized to execute all certificates and instruments which they, with the advice of counsel to the Issuer, deem necessary or appropriate to this transaction and to effectuate the purposes of this resolution, including, but not limited to, a letters of representations, certifications of authority and bring-down certificates. The Secretary is hereby authorized and directed to attest thereto in accordance with the First Supplement to the Indenture.

**Section 7.** All actions heretofore taken by the officers, employees and agents of the Issuer with respect to the actions contemplated by this resolution are hereby approved, confirmed and ratified, and the officers of the Issuer and their authorized designees, deputies, agents and counsel are hereby authorized and directed, jointly and severally, to perform their duties and to execute and deliver any and all certificates which they, or counsel to the Issuer, may deem necessary or advisable in order to consummate the extension of the maturity date of the Bonds and the provision of the Support Letter of Credit and otherwise to effectuate the purposes of this resolution.

**Section 8.** The approvals of this resolution shall have no force or effect until the Indenture Amendment Consents, the Loan Agreement Consents and the Extension Consents have been obtained by bond counsel to the Issuer and the Sacramento Notice Public Hearing has taken place and no public comment has been received.

**Section 9.** This resolution shall take effect from and after its adoption.




PASSED, APPROVED, AND ADOPTED at a meeting of the California Infrastructure and Economic Development Bank on October 26, 2010, by the following vote:

AYES: Berte, Redway, Bryant, Leonard, Rice


NOES: None

ABSENT: None

ABSTAIN: None

By   
Stanton C. Hazelroth, Executive Director

Attest:

By   
Roma Cristia-Plant,  
Secretary of the Board of Directors